

REMARKS

This amendment is responsive to the Final Rejection mailed on February 15, 2007, and the Advisory Action mailed on April 27, 2007.

The Applicant responded to the Final Action mailed on February 15, 2007 with an After Final Amendment that was filed on April 13, 2007. In response to that Amendment, an Advisory Action indicated that the Examiner interpreted the claims in the After Final amendment to say that only the protein matrix base of the claimed composition was lyophilized. The Examiner, however, was willing to discuss his interpretation with the Applicant's representative, and participated in an interview with the Applicant's representative on May 7, 2007. The Applicant is grateful for the courtesy of that interview.

During the interview, upon further consideration of the claim language in the After Final amendment, the Examiner agreed that the claim interpretation set forth in the Advisory Action should be reconsidered. The Examiner also discussed with the Applicant's representative how to revise the claim language to incorporate the limitations of claim 7 into claim 1 with greatest clarity, and invited the Applicant to submit an additional After Final Amendment. The present Amendment is offered in response to that invitation, and is intended to rephrase claim 1 for enhanced clarity.

The Examiner provided an Interview Summary by Facsimile on May 7, 2007. The Applicant acknowledges that summary as an accurate summary of the discussion, during which no agreement as to the allowability of any claim was reached.

As discussed during the interview, the amendment of claim 1 incorporates the limitation of previously submitted claim 7 and thus adds no new matter for search or examination. Support for the amendment is provided by original claims 1 and 7. The amendment also reduces the issues for appeal, and places the application in better condition for appeal. The amendment also cancels claims 6 and 7. Accordingly, entry of the amendment and reconsideration in view of the following comments is respectfully requested.

Claim 7 was previously included among claims rejected under 35 USC 102, based on Gao, et al. However, as noted in the Interview Summary provided by the Examiner following the interview discussed above, the only lyophilized compositions disclosed in the cited reference contain whole PTH, not mixtures of whole PTH with other PTH peptides or fragments. Thus the cited reference does not disclose or anticipate the invention of claim 1, and the anticipation rejection should be withdrawn.

Claim 7 was not rejected as obvious under 35 USC 103 in the Final Office Action. The applicant understands this to be because the Examiner did not identify a reference that would provide motivation to modify the teachings of the Gao reference to produce an assay control corresponding to the assay control of claim 7. Therefore, the amendment to incorporate the limitation of claim 7 into claim 1 overcomes all previously presented grounds for rejection. Accordingly, the Applicant believes the claims are in condition for immediate allowance, and respectfully requests reconsideration and allowance of the claims in view of the comments and amendments presented herein.

CONCLUSION

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket no. 532212001900. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

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Respectfully submitted,

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